UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
-- x

Marco Molina,

Plaintiff,

-against-

City of New York, Police Officer Megan Barrone (Shield No. 657), Police Officer Domenico Scibilia and John Does 1-10,

Defendants.

-- x

ANSWER TO COMPLAINT

10 CV 04923 (ILG)(ALC)

JURY TRIAL DEMANDED

Defendants City of New York, Detective Meagan Barone, and Detective Domenico Scibilia, by their attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for their answer to the complaint, respectfully allege, upon information and belief, as follows:

1. Deny the allegations set forth in paragraph "1" of the complaint, except admit that plaintiff purports to bring this action and proceed as stated therein.

2. Deny the allegations set forth in paragraph "2" of the complaint, except admit that plaintiff purports to bring this action and invoke the jurisdiction of the Court as stated therein.

3. Deny the allegations set forth in paragraph "3" of the complaint, except admit that plaintiff purports to base venue as stated therein.

4. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "4" of the complaint.

5. Deny the allegations set forth in paragraph “5” of the complaint, except admit that the City of New York is a municipal corporation duly organized and operating under the laws of the State of New York.

6. Deny the allegations set forth in paragraph “6” of the complaint, except admit that Meagan Barone and Domenico Scibilia are New York City Police Detectives.

7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "7" of the complaint.

8. Deny the allegations set forth in paragraph “8” of the complaint, except admit that Detective Barone and Detective Scibilia were not dressed in police uniforms.

9. Deny the allegations set forth in paragraph "9" of the complaint.

10. Deny the allegations set forth in paragraph "10" of the complaint, except admit that Plaintiff was arrested on February 13, 2008.

11. Deny the allegations set forth in paragraph "11" of the complaint, except admit that Plaintiff was placed in a police van.

12. Deny the allegations set forth in paragraph "12" of the complaint, except admit that Plaintiff was transported to the 83rd precinct.

13. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “13” of the complaint.

14. Deny the allegations set forth in paragraph "14" of the complaint.

15. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "15" of the complaint.

16. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "16" of the complaint.

17. Deny the allegations set forth in paragraph "17" of the complaint, except admit that Detective Barone and Detective Scibilia testified before a jury.

18. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "18" of the complaint.

19. Deny the allegations set forth in paragraph "19" of the complaint.

20. In response to the allegations set forth in paragraph “20” of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

21. Deny the allegations set forth in paragraph “21” of the complaint.

22. Deny the allegations set forth in paragraph “22” of the complaint.

23. Deny the allegations set forth in paragraph “23” of the complaint.

24. In response to the allegations set forth in paragraph “24” of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

25. Deny the allegations set forth in paragraph “25” of the complaint.

26. Deny the allegations set forth in paragraph “26” of the complaint.

27. Deny the allegations set forth in paragraph "27" of the complaint.

28. In response to the allegations set forth in paragraph “28” of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

29. Deny the allegations set forth in paragraph “29” of the complaint.

30. Deny the allegations set forth in paragraph “30” of the complaint.

31. In response to the allegations set forth in paragraph “31” of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

32. Deny the allegations set forth in paragraph “32” of the complaint.

33. Deny the allegations set forth in paragraph “33” of the complaint.

34. In response to the allegations set forth in paragraph “34” of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

35. Deny the allegations set forth in paragraph "35" of the complaint.

36. Deny the allegations set forth in paragraph "36" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

37. The Complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

38. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, or any act of Congress providing for the protection of civil rights.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

39. Plaintiff may have failed to comply with conditions precedent to suit.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

40. Plaintiff may not seek punitive damages as against the City of New York.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

41. Any injury alleged to have been sustained resulted from Plaintiff's own culpable or negligent conduct and/or the intervening conduct of third parties and was not the proximate result of any act of defendants.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

42. Plaintiff's claims may be barred, in whole or in part, by the applicable statue of limitations.

AS AND FOR AN SEVENTH AFFIRMATIVE DEFENSE:

43. To the extent Plaintiff has stated any claims under state law, those claims may be barred by her failure to comply with New York General Municipal Law § 50 *et seq.*

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE:

44. To the extent the Complaint alleges claims against the City of New York under state law, such claims are barred by the doctrine of immunity from judgmental errors in the exercise of governmental functions.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE:

45. There was probable cause for Plaintiff's arrest, detention, and any prosecution.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE:

46. Defendants Detective Meagan Barone and Detective Domenico Scibilia have not violated any clearly established constitutional or statutory right of which a reasonable person would have known and therefore are protected by qualified immunity.

WHEREFORE, defendants City of New York, Detective Meagan Barone, and Detective Domenico Scibilia request judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
January 24, 2011

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants City of New York,
Detective Meagan Barone, and Detective Domenico Scibilia
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New York, New York 10007
(212) 788-0987

By: /s/
Kimberly M. Savino
Assistant Corporation Counsel

To: Christopher Wright, Esq.
Law Office of Christopher Wright
Attorney for Plaintiff
305 Broadway, Suite 1400
New York, New York 10007 (by ECF)

Index No. 10 CV 04923 (ILG)(ALC)

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EASTERN DISTRICT OF NEW YORK

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-against-

City of New York, Police Officer Megan Barrone (Shield No. 657), Police Officer Domenico Scibilia and John Does 1-10,

Defendants.

ANSWER

MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
Attorney for Defendant City, Detective Meagan Barone, and Detective Domenico Scibilia
100 Church Street
New York, New York 10007

Of Counsel: Kimberly M. Savino
Tel: (212) 788-0987
NYCLIS No.

Due and timely service is hereby admitted.

New York, N.Y. .... *, 2011* ..

.... *Esq.*

Attorney for ....